

TRAINING AND TECHNICAL ASSISTANCE SERVICES CONTRACT

Contract Number:

This Training and Technical Assistance Services Contract ("Contract"), entered into by and between the **Indiana Housing and Community Development Authority** (the "IHCDA") and _____ the (the "Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Duties of the Contractor.

The duties of the Contractor are set forth in **Exhibit "A"**, attached hereto and incorporated fully herein, and are summarized below:

The Contractor shall provide training services, administered by the Contractor, to the Indiana Training Institute with funding provided through the United States Department of Health and Human Services ("HHS") through the Community Services Block Grant ("CSBG") Program (42 U.S.C. § 9901 et seq.).

2. Consideration.

The Contractor will be paid for the training services as described more fully in **Exhibit "B,"** attached hereto and made a part hereof. Total remuneration under Contract shall not exceed.

3. Term.

Contract shall take effect as of **October 1, 2013** ("Effective Date") and remain in effect through **September 30, 2014**.

4. Access to Records.

The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Contract. They shall make such materials available at their respective offices at all reasonable times during the term of this Contract, and for three (3) years from the date of final payment under this Contract, for inspection by IHCDA or its authorized designees. Upon request, copies shall be furnished at no cost to IHCDA.

5. Assignment; Successors.

The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor shall not assign or subcontract the whole or any part of this Contract without IHCDA's prior written consent. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of IHCDA, provided that the Contractor gives written notice (including evidence of such assignment) to IHCDA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

6. Assignment of Antitrust Claims.

As part of the consideration for the award of this Contract, the Contractor assigns to the IHCDA all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products or services which are the subject of this Contract.

7. Audits.

Following the expiration of the Contract, the Contractor may be required to arrange for a financial and compliance audit of funds provided by the IHCDA pursuant to Contract. Such audit is to be conducted by an independent public or certified public accountant (or as applicable, the Indiana State Board of Accounts), and performed in accordance with Indiana State Board of Accounts publication entitled "Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The Contractor is responsible for ensuring that the audit and any management letters are completed and forwarded to the IHCDA in accordance with the terms of Contract. Audits conducted pursuant to this paragraph must be submitted no later than nine (9) months following the close of the Contractor's fiscal year. The Contractor agrees to provide the Indiana State Board of Accounts and the IHCDA an original of all financial and compliance audits. The audit shall be an audit of the actual entity, or distinct portion thereof that is the Contractor, and not of a parent, member, or subsidiary corporation of the Contractor, except to the extent such an expanded audit may be determined by the Indiana Board of Accounts or the IHCDA to be in the best interests of the IHCDA. The audit shall include a statement from the Auditor that the Auditor has reviewed Contract and that the Contractor is not out of compliance with the financial aspects of Contract.

Contractor is being paid for services performed under this Contract as an independent contractor and is not a sub-recipient of funds from IHCDA.

8. Authority to Bind Contractor.

The person signing for the Contractor represents that he/she has been duly authorized by Contractor to sign this Contract and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by IHCDA.

9. Changes in Work.

The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by IHCDA. The Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

10. Compliance with Laws.

- A. The Contractor shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by IHCDA and the Contractor to determine whether the provisions of this Contract require formal modification.
- B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with IHCDA as set forth in I.C. § 4-2-6 *et seq.*, I.C. § 4-2-7, *et. seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Contractor or its agents violate any applicable ethical standards, IHCDA may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under I.C. §§ 4-2-6, 4-2-7, 35-44-1-3, and under any other applicable laws.

- C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Contractor agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Contractor. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Contractor is current in its payments and has submitted proof of such payment to the State.
- D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by IHCDA, and agrees that it will immediately notify IHCDA of any such actions. During the term of such actions, the Contractor agrees that IHCDA may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.
- E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by IHCDA or its agencies, and IHCDA decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. IHCDA will consider any extenuating circumstances presented in Contractor's request and may, in its sole discretion, decide to allow Contractor to continue or receive work. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC 5-17-5.
- F. The Contractor warrants that the Contractor, its employees, agents, and subcontractors, if any, shall obtain and maintain all required certifications, permits, licenses, registrations and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for IHCDA. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with IHCDA.
- G. The Contractor affirms that, if it is an entity described in I.C. Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by I.C. 5-22-3-7:
 - (1) The Contractor and any principals of the Contractor certify that:
 - (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of:
 - (i) IC 24-4.7 (Telephone Solicitation Of Consumers);
 - (ii) IC 24-5-12 (Telephone Solicitations); or
 - (iii) IC 24-5-14 (Regulation of Automatic Dialing Machines);
 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
 - (B) the Contractor will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.
 - (2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor
 - (A) except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
 - (B) will not violate the terms of IC 24-4.7 for the duration of the Contract, even if IC 24-4.7 is preempted by federal law.
 The following clause is required for all contracts unless exempted under IC § 5-22-1.
- I. As required by IC §5-22-16.5, the Contractor certifies that the Contractor is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in IC §5-22-16.5-14 including termination of this Contract, denial of future state contracts, as well as an imposition of a civil penalty.

11. Condition of Payment.

All services provided by the Contractor under this Contract must be performed to IHCD's reasonable satisfaction, as determined at the discretion of the undersigned IHCD representative and in accordance with **Exhibit A** and all applicable federal, state, and local laws, ordinances, rules and regulations. IHCD shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of any federal, state or local statute, ordinance, rule or regulation. As required by I.C. 4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the Controller of IHCD. As a further condition of payment, the Contractor shall complete in full and return to IHCD a federal Form W-9 (Request for Taxpayer Identification Number and Certification), the form of which is attached hereto as **Exhibit "C"** and made a part hereof.

12. Confidentiality of Information.

The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material and information gathered, based upon or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to or discussed with third parties without the prior written consent of IHCD.

The parties acknowledge that the services to be performed by Contractor for IHCD under this contract may require or allow access to data, materials, and information containing Social Security numbers or other personal information maintained by or on behalf of IHCD in a computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and IHCD agree to comply with the provisions of I.C. 4-1-10 and I.C. 4-1-11. If any Social Security number(s) or personal information (as defined in I.C. 4-1-11-3) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

13. Continuity of Services. Intentionally omitted.

14. Debarment and Suspension.

- A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor. No organization may participate in this project in any capacity or be a recipient of Federal funds designated for this project if the organization has been debarred or suspended or otherwise found to be ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension." (See 45 CFR 92.35)
- B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify IHCD if any subcontractor becomes debarred or suspended, and shall, at IHCD's request, take all steps required by IHCD to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

15. Default by IHCD.

If IHCD, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination.

16. Disputes.

- A. Should any disputes arise with respect to this Contract, the Contractor and IHCD agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by IHCD or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no claim to or against IHCD for such additional costs.
- C. If a party to the Contract is not satisfied with the progress toward resolving a dispute, the party must notify in writing the other party of this dissatisfaction. Upon written notice, the parties have ten (10) working days, unless the parties mutually agree to extend this period, following the notification to resolve the dispute. If the dispute is not resolved within ten (10) working days, a dissatisfied party will submit the dispute in writing according to the following procedure:
 1. The parties agree to resolve such matters through submission in writing of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and IHCD within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination. If a party is not satisfied with the Commissioner's ultimate decision, the dissatisfied party may submit the dispute to an Indiana court of competent jurisdiction.
 2. IHCD may withhold payments on disputed items pending resolution of the dispute. The Contractor shall not have the right to terminate the Contract based on the unintentional nonpayment by IHCD to the Contractor of one or more invoices not in dispute. The Contractor may bring suit to collect these amounts without following the disputes procedure contained herein.

17. Drug-Free Workplace Certification.

The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to IHCD within ten (10) days after receiving actual notice that the Contractor or an employee of the Contractor in the State of Indiana has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with IHCD for up to three (3) years.

In addition to the provisions of the above paragraph, if the total contract amount set forth in this Contract is in excess of \$25,000.00, the Contractor hereby further agrees that this Contract is expressly subject to the terms, conditions, and representations of the following certification:

The Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying IHCDA in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

18. Employment Eligibility Verification.

The Contractor affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien. The Contractor shall not knowingly employ or contract with an unauthorized alien. The Contractor shall not retain an employee or contract with a person that the Contractor subsequently learns is an unauthorized alien.

19. Employment Option. Intentionally omitted.

20. Force Majeure.

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

21. Funding Cancellation.

When the Executive Director of IHCD makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Executive Director that funds are not available shall be final and conclusive.

22. Governing Laws.

This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in courts located in Marion County, Indiana.

22. HIPAA Compliance.

If this Contract involves services, activities or products subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Contractor covenants that it will appropriately safeguard Protected Health Information (defined in 45 CFR 160.103), and agrees that it is subject to, and shall comply with, the provisions of 45 CFR 164 Subpart E regarding use and disclosure of Protected Health Information.

23. Indemnification.

The Contractor agrees to indemnify, defend, and hold harmless IHCD, its agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses arising from or connected with any act or omission of the Contractor and/or its subcontractors, if any, in the performance of this Contract. IHCD shall **not** provide such indemnification to the Contractor.

24. Independent Contractor.

Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Except as provided in **Section 22**, neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party.

The Contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the Contractor's employees.

25. Information Technology Enterprise Architecture Requirement.

If the Contractor provides any information technology related products or services to the IHCD, the Contractor shall comply with the principles and goals contained in the electronic and information technology accessibility standards adopted under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794d) and IC 4-13.1-3. Any deviation from these architecture requirements must be approved in writing by IOT in advance. The IHCD may terminate Contract for default if the Contractor fails to cure a breach of this provision within a reasonable time.

26. Insurance.

The Contractor shall secure and keep in force during the term of this Contract, the following insurance coverages, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:

A. Comprehensive general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits of \$700,000 per occurrence and \$2,000,000 aggregate, unless additional coverage is required by IHCD. IHCD is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.

1. The Contractor shall obtain proof of such insurance coverage by tendering to the undersigned IHCD representative a certificate of insurance and proof of Workers compensation coverage meeting all statutory requirements of IC 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

B. The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority issued by the Indiana Department of Insurance.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
3. IHCD will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify IHCD under this Contract shall not be limited by the insurance required in this Contract.
4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.

C. Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling IHCD to immediately terminate this Contract. The Contractor shall obtain a certificate of insurance and all endorsements to IHCD before the commencement of this Contract.

27. Key Person(s). Intentionally left blank.

28. Licensing Standards.

The Contractor, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Contractor pursuant to this Contract. IHCD will not pay the Contractor for any services performed when the Contractor, its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification or accreditation, the Contractor shall notify IHCD immediately and IHCD, at its option, may immediately terminate this Contract.

29. Merger & Modification.

This Contract contains the entire understanding between the parties regarding the subject matter hereof and no representations, inducements, promises or oral agreements not embodied herein shall be of any force or

effect. This Contract may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties. However, this Contract may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same contract.

30. Minority and Women's Business Enterprises Compliance.

Award of this Contract was based, in part, on the MBE/WBE participation plan. The following certified MBE or WBE subcontractors will be participating in this Contract:

<u>MBE/WBE</u>	<u>PHONE</u>	<u>COMPANY NAME</u>	<u>SCOPE/ PRODUCTS and/or SERVICES</u>	<u>UTILIZATION DATE</u>	<u>AMOUNT</u>

A copy of each subcontractor agreement must be submitted to IDOA's MBE/WBE Division within thirty (30) days of the effective date of this Contract. Failure to provide a copy of any subcontractor agreement will be deemed a violation of the rules governing MBE/WBE procurement, and may result in sanctions allowable under 25 IAC 5-7-8. Failure to provide any subcontractor agreement may also be considered a material breach of this Contract. The Contractor must obtain approval from IDOA's MBE/WBE Division before changing the participation plan submitted in connection with this Contract.

31. Nondiscrimination.

Pursuant to the Indiana Civil Rights Law, specifically including I.C. 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this paragraph may be regarded as a material breach of this Contract, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the State and any applicant or employee of the Contractor or any subcontractor.

IHCDA is a recipient of federal funds, and therefore, where applicable, Contractor and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246.

32. Notice to Parties.

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

Whenever any notice, statement or other communication is required under Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

Notices to the IHCDA shall be sent to:

Taura Edwards Brown, Community Programs Manager

**Indiana Housing and Community Development Authority
30 South Meridian Street, Suite 1000
Indianapolis, Indiana 46204**

With a copy to:

**Mark J. Wuellner, General Counsel
Indiana Housing and Community Development Authority
30 South Meridian Street, Suite 1000
Indianapolis, Indiana 46204**

Notices to the Contractor shall be sent to:

33. Order of Precedence; Incorporation by Reference.

Any inconsistency or ambiguity in Contract shall be resolved by giving precedence in the following order: (1) Contract, (2) attachments prepared by the IHCD, (3) the Contractor's proposal and its ITI Training Plan for 2013-2014, as revised on _____ and (4) attachments prepared by the Contractor. All attachments, and all documents referred to in this paragraph are hereby incorporated fully by reference.

34. Ownership of Documents and Materials.

All documents, records, programs, data, film, tape, articles, memoranda, and other materials not developed or licensed by the Contractor prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Contractor transfers any ownership claim to IHCD and all such materials will be the property of IHCD. Use of these materials, other than related to contract performance by the Contractor, without the prior written consent of IHCD, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to these materials developed for or supplied by IHCD and used to develop or assist in the services provided while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense. The Contractor shall provide IHCD full, immediate, and unrestricted access to the work product during the term of this Contract.

35. Payments.

All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by I.C. 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the IHCD Controller. No payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by I.C. 4-13-2-20.

The Contractor shall provide the IHCD with copies of all invoices within sixty (60) days after the expiration of the term in which said services were provided or said expenses were incurred. If the Contractor fails to submit its invoices to IHCD within the sixty (60) day period set forth above, the Contractor may not receive payment for those invoices by the IHCD.

36. Penalties/Interest/Attorney's Fees.

IHCD will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, I.C. 5-17-5, I.C. 34-54-8, and I.C. 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, any liability resulting from IHCDAs failure to make prompt payment shall be based solely on the amount of funding originating from IHCDAs and shall not be based on funding from federal or other sources.

37. Progress Reports.

The Contractor shall submit progress reports to IHCDAs upon request. The report shall be oral, unless IHCDAs, upon receipt of the oral report, should deem it necessary to have it in written form. The progress reports shall serve the purpose of assuring IHCDAs that work is progressing in line with the proposal or schedule, and that completion can be reasonably assured on the scheduled date.

38. Public Record.

The Contractor acknowledges that IHCDAs will not treat this Contract as containing confidential information. Use by the public of the information contained in this Contract shall not be considered an act of the IHCDAs.

39. Renewal Option.

This Contract may be renewed once under the same terms and conditions, subject to approval of the IHCDAs Board of Directors, and in compliance with I.C. 5-22-17-4. The term of the renewed Contract may not be longer than the term of the original Contract.

40. Severability.

The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

41. Substantial Performance.

This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

42. Taxes.

IHCDAs is exempt from most state and local taxes and many federal taxes. IHCDAs will not be responsible for any taxes levied on the Contractor as a result of this Contract.

43. Termination for Convenience.

This Contract may be terminated, in whole or in part, by IHCDAs whenever, for any reason, IHCDAs determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination may continue. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. IHCDAs will not be liable for services performed after the effective date of termination.

44. Termination for Default.

- A. With the provision of thirty (30) days notice to the Contractor, IHCDAs may terminate this Contract in whole or in part if the Contractor fails to:

1. Correct or cure any breach of this Contract;
 2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
 3. Make progress so as to endanger performance of this Contract; or
 4. Perform any of the other provisions of this Contract.
- B. If IHCD A terminates this Contract in whole or in part, it may acquire, under the terms and in the manner IHCD A considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to IHCD A for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.
- C. IHCD A shall pay the contract price only for completed supplies delivered to and services performed for and accepted by IHCD A. The Contractor and IHCD A shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. IHCD A may withhold from these amounts any sum IHCD A determines to be necessary to protect IHCD A against loss because of outstanding liens or claims of former lien holders.
- D. The rights and remedies of IHCD A in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.
- E. This Contract may be suspended and/or terminated immediately if the Contractor has breached, defaulted, or committed fraud under this Contract or another contract between the Contractor and IHCD A. Further, Contractor's breach or default of other agreements or obligations related to this Contract shall constitute a material breach of this Contract.

45. Travel. Intentionally omitted.

46. Waiver of Rights.

No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither IHCD A's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to IHCD A in accordance with applicable law for all damages to IHCD A caused by the Contractor's negligent performance of any of the services furnished under this Contract.

47. Work Standards.

The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If IHCD A becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, IHCD A may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

48. State Boilerplate Affirmation Clause.

IHCD A swears or affirms that it has not altered, modified changed or deleted the State's Boilerplate contract clauses (as contained in the 2011 OAG/IDOA Professional Services Contract Manual) in any way except for the following clauses:

11. **Condition of Payment.** Added “as required by I.C. 4-13-2-14.8, payments to the Contractor shall be made via electronic funds transfer in accordance with instructions filed by the Contractor with the IHCDCA Controller.” Also added “As a further condition of payment, the Contractor shall complete in full and return to IHCDCA a federal Form W-9 (Request for Taxpayer Identification Number and Certification), the form of which is attached hereto as **Exhibit “C”** and made a part hereof” in order to incorporate requirements issued by IHCDCA’s Finance Department.
12. **Confidentiality of Information.** Added “on behalf of IHCDCA in a computer system or” into the first sentence in the second paragraph of this section after the phrase “or other personal information maintained by or”.
23. **Indemnification.** Substituted “arising from or connected with” for “caused by.”
24. **Independent Contractor.** Inserted “Except as provided in Section 21 above,” before the sentence beginning with “Neither party shall assume.”
26. **Insurance.** Changed paragraph A(1) to substitute “with minimum liability limits of \$700,000 per occurrence and \$2,000,000 aggregate,” instead of referencing “per person” and “per occurrence.” The reduced coverage amounts are acceptable to IHCDCA, given that the higher limit of \$5,000,000 would require multiple layers of insurance coverage at a cost that is disproportionate to the contract amount.
29. **Merger & Modification.** Substituted “This Contract contains the entire understanding between the parties regarding the subject matter hereof and no representations, inducements, promises or oral agreements not embodied herein shall be of any force or effect” for the first two sentences in the State’s boilerplate.
35. **Payments.** Substituted “IHCDCA Controller” for “Indiana Auditor of State,” because IHCDCA manages its funds separately from the State.
43. **Termination for Convenience.** Substituted “may continue” for “becomes effective” in lines 4-5 of this paragraph.

49. Equal Employment Opportunity.

Contractor shall comply with E.O. 11246, “Equal Employment Opportunity,” as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

50. Byrd Anti-lobbying Amendment (31 U.S.C. 1352).

The Contractor certifies that it will not and has not used any Federal funds to pay any person or organization for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. The Contractor or any subcontractor or sub-grantee shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

51. Equal Treatment of Faith-Based Organizations.

The Contractor agrees not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded pursuant to this Contract. If the Contractor conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded pursuant to this Contract, and participation must be voluntary. Any religious organization that participates will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct financial assistance from this Contract to support any inherently religious activities, such as worship, religious instruction, or proselytization.

52. Trafficking Victims Protection Act of 2000, As Amended (22 U.S.C. 7104).

The Contractor agrees to comply with Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended.

53. Nondiscrimination under Programs Receiving Federal Financial Assistance.

In accordance with 45 CFR Part 80, Contractor agrees that no person shall; on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving funds provided through this Contract.

54. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance.

In accordance with 45 CFR Part 84, Contractor agrees that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program receiving funds provided through this Contract.

55. Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance.

In accordance with 45 CFR Part 91, Contractor agrees that no person shall, on the basis of age, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving funds provided through this Contract.

56. Conflict of Interest.

Contractor agrees to comply with applicable provisions of the OMB Circular A-110 and “The Common Rule,” regarding conflicts of interest. Contractor further acknowledges and agrees that no employee, agent, representative, or subcontractor of Contractor who may be in a position to participate in the decision-making process of Contractor or its subcontractors may derive an inappropriate personal or financial interest or benefit from any activity funded through this Contract, either for himself or for those with whom he has family or business ties.

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NON-COLLUSION AND ACCEPTANCE

The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the properly authorized representative, agent, member or officer of the Contractor, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

In Witness Whereof, Contractor and IHCD have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

(Contractor):

By: _____	Where Applicable: Attested By: _____
Printed Name: _____	_____
Title: _____	_____
Date: _____	_____

**Indiana Housing and Community
Development Authority:**

By: _____
Printed Name: J. Jacob Sipe _____
Title: Executive Director _____
Date: _____

**Contract Number EN-
CFDA Number 93.569**